*THE HONOURABLE SRI JUSTICE V.V.S.RAO

+ WRIT PETITION Nos.3012, 3394 AND 3972 OF 2002 AND 17542 OF
2004; AND CIVIL REVISION PETITION NO.4223 OF 2003

%17-11-2006

Chama Narasimha Reddy and others

...PETITIONERS

Vs.

$ The Joint Collector, Ranga Reddy District at Hyderabad and others

...RESPONDENTS

! COUNSEL FOR PETITIONERS: SRI R.MAHENDER REDDY

^ COUNSEL FOR RESPONDENTS: G.P. FOR URBAN LAND CEILING

<GIST

>HEAD NOTE:

?CASES REFERRED:

1. 1972(1) ALT 270 (paras 9 and 10)
2. AIR 1974 SC 1480
3. 1993(2) An.WR 84 = 1993(2) ALT 45 (NRC)
4. (1995)3 SCC 291
5. 1989 Supp (1) SCC 246
6. 1995 Supp (1) SCC 162 = (1999) 4 Scale 750

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.3012, 3394 AND 3972 OF 2002 AND
17542 OF 2004; AND
CIVIL REVISION PETITION NO.4223 OF 2003

17.11.2006

Between:

Chama Narasimha Reddy, S/o.late Yadagiri
and others

… Petitioners

AND

The Joint Collector, Ranga Reddy District
and others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.3012, 3394 AND 3972 OF 2002 AND
17542 OF 2004; AND
CIVIL REVISION PETITION NO.4223 OF 2003

COMMON ORDER:

INTRODUCTION

The background facts in all these writ petitions and the civil revision petition are same. The rival claim of the parties – be it petitioners or respondents; is in respect of the same land admeasuring about Acs.55.00 in Survey Nos.210 to 213, 221 to 225 (for the sake of convenience referred to hereinafter as schedule land) situated at Papayyaguda hamlet of Kuntloor village of Hayathnagar Mandal, Ranga Reddy District. The contentions raised and the documents relied on are almost the same. It is therefore expedient to pass common order.

BACKGROUND FACTS[1]

The schedule land and other extents of land (total extent of 300 acres in same survey numbers) originally belonged to one Vakiti Pulla

Reddy, husband of eighth respondent. After enactment of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereafter called, the Land Reforms Act), he filed declaration before the Land Reforms Tribunal (LRT), who is represented by the respondent No.15. He was declared surplus landholder and while doing so in accordance with Section 13 of the Land Reforms Act, land which was in possession of Gaddam Babaiah, Gaddam Somaiah and others, the protected tenants, was excluded because under A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (hereafter called, the Tenancy Act), the protected tenants are entitled to statutory protection/ownership rights. It appears the protected tenants or their legal heirs filed necessary applications under Section 10 of A.P. (Telangana Area) Abolition of Inams Act, 1955 (hereafter called, the Inams Abolition Act) and the Inams Tribunal/Revenue Divisional Officer (RDO), granted Occupancy Rights Certificate (ORC) in respect of land admeasuring about Acs.50.00 in favour of the protected tenants. Insofar as this land for which protected tenants are registered as occupants is concerned, there is not much dispute in these proceedings. The dispute, however, is regarding another piece of land admeasuring about Acs.55.00. This dispute started some time in 1994 as four groups/categories of persons filed four claims before RDO claiming ORC. The petitioners, respondent No.8 and respondent No.9 filed applications under Section 10 of the Inams Abolition Act before RDO (second respondent). Respondents 16 to 21 claiming themselves to be the legal heirs/successors of another protected tenant joined the dispute at the stage of appeal though they did not file applications before the RDO. The details of these claims are as follows.

(i) *Inamdars Claim*: The eighth respondent, wife of late Pulla Reddy, filed application in Form-I for grant of ORC in respect of land admeasuring Acs.58.01 guntas under Section 4 of the Inams Abolition Act. The same was dealt with by RDO in File No.J/3245/94, who dismissed the claim on 19.09.1997. Her appeal in F1/6915/1997 was also dismissed by the appellate authority, namely, the Joint Collector (first respondent) on 22.12.2001. Failing to get ORC, the eighth respondent then filed W.P.No.7521 of 2001 but the same was dismissed by this Court as withdrawn on 23.07.2001. Therefore, the claim made by the legal heir of original pattadar/inamdar no more survives.

(ii) *Purchasers Claim*: In this category, there are two groups.

(a) The ninth respondent, namely, Popular Weaker Cooperative Housing Society filed claim petition in Form-I for grant of ORC for the land admeasuring Acs.55.07 guntas alleging that they entered into an unregistered agreement of sale with late Pulla Reddy on 25.08.1982,

and therefore, they may be registered as occupants under Section 10 of the Act. The claim of the said Society in File No.J/1398/96 was rejected. They were unsuccessful before the Joint Collector in proceedings in F1/7864/1997, by reason of the orders of the appellate authority, dated 22.12.2001. Aggrieved by the same, the ninth respondent filed W.P.No.3972 of 2002.

(b) The petitioners Chama Narsimha Reddy and Chama Pratap Reddy – both are brothers; allege that they purchased land admeasuring Acs.68.00 cents in various survey numbers under an agreement of sale, dated 10.02.1967. They filed their claim petition in Form-I for ORC. The same being J/2740/94 was rejected by the original authority as well as appellate authority. Aggrieved by the same, they filed W.P.No.3012 of 2002.

(iii) *Protected Tenants Claim*: Respondents 16 to 21 are allegedly another group of protected tenants claiming ORC. They did not file any claim petition before the RDO. Alleging that the application of other tenants was considered without notice to them, they filed appeal against the orders of the RDO before the Joint Collector, who dismissed the same vide proceedings F1/9079/98, dated 22.12.2001. They filed W.P.No.3394 of 2002 seeking a writ of Certiorari.

(iv) *Authorised Officer's Claim*: As mentioned supra, late Pulla Reddy was declared as surplus holder of agricultural land by the LRT. The legal heirs of protected tenants, namely, Gaddam Babaiah filed appeal before the Land Reforms Appellate Tribunal (LRAT), Ranga Reddy. They sought exclusion of land admeasuring Acs.54.24 guntas including land to an extent of Acs.54.00 for which they obtained ORC under Section 7 of the Inams Abolition Act. The LRAT remanded the matter on 21.12.1992 to the original authority. Thereafter, the LRT by order, dated 22.06.1994 deleted Acs.54.24 guntas from the total surplus area of Acs.146.42 declared to be surplus holding of declarant, as a result of which, an extent of Acs.91.82 cents in survey Nos.204, 208, 209, 210, 214, 216, 224, 225 and 234 etc.,was ordered to be in the custody of the Government. Again, Gaddam Narsimha and others (LRs of PTs) filed appeal being LRA No.267 of 1994. This was allowed by LRAT on 01.04.1995 directing to delete an extent of Acs.107.31 cents (including Acs.54.24 guntas, for which ORC was issued) from the total holding of the declarant Pulla Reddy. In consequential surrender proceedings, LRT deleted an extent of Acs.53.07 guntas from the surrendered land. This was challenged by eighth respondent in C.R.P.No.661 of 1996, which was allowed on 10.11.1999 restoring order of the LRT, dated 22.06.1994 deleting only Acs.54.24 guntas. At that stage, the Authorized Officer (Land Reforms) filed appeal before the Joint Collector under Section 24 of the Inams

Abolition Act, also assailing order of the RDO granting ORC for Acs.54.24 guntas in favour of the legal heirs of Gaddam Babaiah. The same was rejected by the Joint Collector by the common order, dated 22.12.2001 in proceedings No.F1/6906/A/97. Aggrieved by the same, the Authorised Officer, who is arrayed as respondent No.15 in W.P.No.3012 of 2002, filed C.R.P.No.4223 of 2003 under Section 28 of Inams Abolition Act.

ORDER OF RDO/INAMS TRIBUNAL

For better appreciation of various contentions raised by the learned counsel for rival parties, it is necessary to briefly notice the sum and substance of the claims, the points considered by RDO and order dated 19.9.1997 passed on the claim petitions. Before the RDO, the petitioners, respondent No.9 (alleged purchaser) and respondent No.8 (inamdar) claimed ORC. After receiving the claim petitions, the RDO issued general notice as well as personal notice in Form-II to the claimants as well as persons claiming to be protected tenants or their legal heirs. Respondent No.8 filed petition objecting grant of ORC to petitioners *inter alia* on the ground that the claim of the petitioners was already rejected on 20.06.1989, which was confirmed by the Joint Collector on 17.12.1994. In her own application, she also claimed to be in personal cultivation and occupation of the schedule land in support of her claim for ORC. Respondent No.9 based his claim on an alleged agreement of sale, dated 25.03.1982 by late Pulla Reddy in its favour for claiming ORC. The claim petitions were referred to Mandal Revenue Officer (MRO) to submit a report thereon. The MRO submitted report vide letter No.D/1989/94, dated 12.08.1994 (hereafter called, the first report for clarity). The MRO reported that the lands are classified as Dastagirdhan (land vested in State), that as per pahani 1973-1974 Chama Pratap Reddy, Punnaiah and Karimsab were in possession of the land and as per the record of rights, the lands are in possession of the inamdar. The MRO also reported that as per the pahani 1993-1994, Chama Pratap Reddy and Chama Narsimha Reddy are shown to be in possession of the schedule lands.

Whatever be the reason, the MRO, Hayathnagar, again submitted another report vide letter No.B/5338/96, dated 26.08.1996 (hereafter called, the second report, for clarity) and reported that as per the records, Vakiti Pulla Reddy was inamdar, that as per pahani for the year 1974-1975 Vakiti Pratap Reddy, Narsimha Reddy an Mallaiah were shown to be in possession of the lands, but as per his local enquiry, late Gaddam Babaiah was the tenant with longstanding possession till his death in 1983, and that after his death, Babaiah's five sons, Mallesh, Krishna, Sailoo, Somaiah and Durgaiah were in physical possession of the lands. The MRO also recommended to

issue ORC to Gaddam Mallesh and others. The claimants relied on two reports of MRO in support of their claims. Taking into consideration that the first report and the second report of MRO as well as the entire records, RDO came to the following conclusions: (i) the schedule land is Dastagirdhan (inam land); (ii) the eighth respondent i.e., inamdar, did not produce any clinching evidence to show that the land was under her personal cultivation on the date of vesting, i.e., 01.11.1973[2], hence, her claim has to be rejected; (iii) the ninth respondent did not produce any positive evidence to show that possession was delivered to the cooperative society under the alleged agreement of sale, dated 25.08.1982 and therefore, not entitled for ORC; and (iv) Gaddam Mallesh and others, the legal heirs of Gaddam Babaiah, who are in possession and cultivating the schedule land, are entitled to get ORC.

ORDER OF JOINT COLLECTOR

In addition to the appeals filed by the petitioners, respondent No.8 and respondent No.9, there were also appeals filed before the Joint Collector by respondents 16 to 21 and appeal filed by Authorised Officer, Ranga Reddy District. By a common order, the Joint Collector disposed of all the appeals in favour of respondents 10 to 14. The Joint Collector framed two issues. They are (1) Whether the petitioners or respondents 10 to 14 are entitled for ORC in respect of schedule land admeasuring Acs.56.13 guntas? and (2) What is the extent of surplus land held by Pulla Reddy declared by LRT and what relief that is the Authorised Officer and Legal Representatives is entitled for?

Insofar as the first issue is concerned, the Joint Collector came to the following conclusions. (i) The inamdar, Vakiti Sattemma (respondent No.8), failed to prove her possession over the schedule land and that she is not entitled for relief under Section 4 of the Inams Abolition Act; (ii) The petitioners interpolated their names in the revenue records as possessors by manipulating the records, that when enquiry was conducted into the claim petition filed by the protected tenants, the objection petition filed by the petitioners was rejected by the original authority as well as the appellate authority and, therefore, their request for grant of ORC cannot be considered; (iii) Respondents 16 to 21 are not entitled for ORC as they are claiming possession based on invalid documents and that there is nothing in the records to prove the contention that their ancestor was tenant of the lands; (iv) The claim of Popular Weaker Section Cooperative Housing Society (respondent No.9), does not fall within the ambit of any one of Sections 4 to 8 of Inams Abolition Act and that Vakiti Pulla Reddy was never in

possession of the lands on the date of vesting i.e., 20.7.1955 in respect of the lands in survey Nos.210 to 213, 221 to 223; and (v) Gaddam Babaiah and after his death his legal heirs were in possession of the schedule lands as evidenced by Kowlnama and report of the MRO and, therefore, the grant of ORC by RDO in their favour does not warrant interference by the appellate authority.

Issue No.2 exclusively concerns with the appeal filed by the Authorised Officer being No.F1/6906/A/97. The said appeal was filed under Section 24 of the Inams Abolition Act challenging the grant of ORC in favour of Madugula Punnaiah, Mohammed Khasim Ali, Smt.Kanta Bai and Gaddam Narasimha and others. It appears that by proceedings dated 28.12.1979, the RDO granted ORC to Madugula Punnaiah to an extent of Acs.28.04 gunas in survey Nos.204, 208 and 209. The appeal was also against the proceedings of the RDO dated 19.9.1979 whereby and whereunder ORC was granted to legal heirs of protected tenant. The proceedings of the RDO dated 08.11.1992 granting ORC in favour of Kanta Bai and proceedings of the RDO dated 05.2.1986 granting ORC in favour of Mohd. Khasim Ali, were also subject matter of the appeal filed by the Authorised Officer.

After making elaborate reference to the proceedings before the LRT and LRAT and noticing that the land declared by Vakiti Pulla Reddy to be in possession of protected tenants, the Joint Collector dismissed the appeal by the Authorised Officer insofar as it challenged grant of ORC in favour of Madugula Punnaiah and in favour of the legal heirs of protected tenants. The Joint Collector, however, set aside the ORC granted in favour of Smt.Kanta Bai and Mohd. Khasim Ali (they are not parties in these writ petitions) on the ground that the declarant, Vakiti Pulla Reddy, either in his declaration or deposition before the LRT, did not mention about the agreement of sale in favour of these two persons.

As noticed in the beginning aggrieved by the order of the Joint Collector insofar as it went against them, the Authorised Officer filed C.R.P.No.4223 of 2003. Respondents 10 to 14 (in W.P.No.3012 of 2002) filed separate writ petition being W.P. No.17542 of 2004 challenging the order of the Joint Collector insofar as the same upheld granting ORC in favour of Madugula Punnaiah. It is mainly contended by them that Madugula Punnaiah has nothing to do with the land and that all along Gaddam Sailoo or Sayamma, the ancestor of respondents 10 to 14, was the protected tenant of the land. Son of Madugula Punnaiah is arrayed as respondent No.3 in W.P.No.17542 of 2004.

SUBMISSIONS OF THE LEARNED COUNSEL

Learned Counsel for the petitioners in W.P.No.3012 of 2002,

Mr.R.Mahender Reddy, submits that the petitioners purchased schedule property from inamdar and they were inducted into possession. This was also reflected in the relevant revenue records especially pahanis for 1963-1964, 1973-1974 and 1993-1994. In the first report submitted by the MRO, Hayathnaar Mandal, this fact was noticed. The original authority as well as appellate authority rejected the first report without any reason but, gave undue importance to the second report submitted by the MRO. He would urge that the second report has no sanctity in law and, therefore, rejection of ORC for the petitioners based on the second report is contrary to the provisions of Inams Abolition Act and illegal. Secondly, he contends that the inamdar, Vakiti Pulla Reddy, filed declaration under Land Reforms Act being C.C.No.1180/T/75. While considering the declaration in its proceedings dated 05.8.1976, LRT, Hyderabad (East), has noticed that lands in survey Nos.204 to 219 and a part of land in survey No.232 are sold to the second petitioner much prior to coming into force of Land Reforms Act and prior to date of vesting under Inams Abolition Act. He also submits that Vakiti Pulla Reddy gave statement before the LRT to that effect and hence rejection of the claim of the petitioners for ORC is unsustainable. Learned Counsel further submits that the Original Authority erroneously came to a conclusion that the records have been tampered by interpolating the names of the respondents without even furnishing the copies to the petitioners, which is illegal.

Learned counsel for respondent No.9 (petitioner in W.P.No.3972 of 2002), Sri K.Raghuveera Reddy, made submissions to the following effect. Respondent No.9 is entitled for grant of ORC for schedule land by reason of the agreement of sale executed by inamdar. After obtaining agreement, the society has executed sale deeds in favour of 412 members of the society, who are now in possession of the land as per pahani 1991-1992. The land was declared before LRT that the land0 has been sold by Pulla Reddy. There cannot be any iota of doubt that the society alone is in possession of the land. Respondents 10 to 14 or their predecessors were not shown to be the occupants as per pahani for the year 1954-1955, as found by the MRO while submitting the first report but the original authority as well as appellate authority erroneously granted ORC in favour of respondents 10 to 14.

Learned counsel for respondents 16 to 21 (petitioners in W.P.No.3394 of 2002), Sri M.Damodhar Reddy, assails the impugned order insofar as the same denies ORC to his clients. He submits that respondents 16 to 21 are protected tenants of the schedule lands, who are in possession of the lands as per revenue records. When respondents 10 to 14 filed a suit being O.S.No.154 of 1999 on the file of the Court of the II Additional District Judge, Ranga Reddy District,

though initially *ad interim* injunction was granted in I.A.No.6004 of 1999, the same was modified by this Court in C.M.A.No.1326 of 2000 ordering *status quo* and therefore, the RDO ought not to have granted ORC in their favour. After abolition of inams in Telangana area, only those persons who are found to be in possession of the land as on 01.11.1973 (the date of vesting) would be entitled for ORC. The respondents 10 to 14 did not adduce any evidence in support of their claim and therefore, grant of ORC in their favour, who are not in possession as on 01.11.1973, is itself illegal and against Section 6 of Inams Act.

Learned counsel for the respondents 10 to 14, (petitioners in W.P.No.17542 of 2004 and respondents 7 to 11 in C.R.P.No.4223 of 2003), Sri A.Pulla Reddy, impugns only the order of the appellate authority – Joint Collector; in appeal No.F1/6906/A/97 (which was filed by Authorized Officer), insofar as the same upheld the order/proceedings of the RDO, dated 28.12.1997, whereby and whereunder Madugula Punnaiah – the immediate predecessor of third respondent in W.P.No.17542 of 2004 was granted ORC in respect of land admeasuring Acs.28.04 guntas in survey Nos.204, 208 and 209. He submits that ORC was granted to Madugula Punnaiah by the RDO without notice to the actual protected tenants or the legal heirs. He would urge that Madugula Punnaiah has nothing to do with the land in respect of which Gaddam Babaiah and Gaddam Sailoo were already granted ORC, in respect of which ownership certificate under Section 38-E of the Tenancy Act was given for an extent of Acs.54.24 guntas. He also submits that the observation made by the Joint Collector insofar as Acs.53.07 guntas to the effect that they were not declared by Pulla Reddy to be in possession of protected tenants is erroneous and liable to be set aside.

Learned Government Pleader for Land Ceiling, appearing for respondent No.15 and petitioner in C.R.P.No.4223 of 2003, submits that the impugned order granting ORC in favour of respondent No.3 and respondents 7 to 11 in the C.R.P. without notice to Authorised Officer is illegal. He points out that in the absence of any declaration by late Pulla Reddy that land admeasuring about Acs.110.00 was in possession of protected tenants, RDO ought not to have granted ORC without verifying the genuineness of Kowlnama and pahanis for the relevant period. Learned Government Pleader, however, does not dispute that the protected tenants were granted certificates under Section 38-E of the Tenancy Act, but he contends that mere grant of ownership certificate cannot be a ground to issue ORC under Inams Abolition Act. Learned Counsel appearing for contesting respondents in C.R.P. opposed revision petition filed under Section 28 of Inams

Abolition Act as not maintainable.

POINTS FOR CONSIDERATION

The background facts and the rival submissions would give rise to the following points for consideration.

(1) Whether petitioners and respondent No.9 are entitled for ORC based on the agreements of sale executed by Vakiti Pulla Reddy?

(2) Whether the grant of ORC in favour of respondents 3 to 7 in W.P.No.3012 of 2002 is not valid?

(3) Whether respondents 16 to 21 are entitled for ORC in respect of land to an extent of Acs.56.13 guntas in S.Nos.210 to 213 and 221 to 223?

(4) Whether the ORC granted to Madugula Punnaiah, father of the third respondent in W.P.No.17542 of 2004, is not valid?

(5) Whether the C.R.P. No.4223 of 2003 filed by the Authorised Officer, Land Reforms, under Section 28 of the Act, is maintainable?

In Re Points 1 to 3

Inams Abolition Act applies to Telangana area of State of Andhra Pradesh. It is made applicable to all inams as defined in Section 2(1)(c) of the Act. The Act seeks to abolish all inams besides providing for registration of certain categories of holders as occupants of the land. Inamdars[3] (Section 4), Kabize-e-khadim[4] (Section 5), Permanent tenants[5] (Section 6), Protected tenants[6] (Section 7) and Non-protected tenants[7] (Section 8) are five categories of persons, who can be registered as occupants as per Section 10 of Inams Abolition Act. So as to claim ORC, these persons have to prove that as on the date of vesting, such person is in occupation of the inam land.

Inams Abolition Act came into force with effect from 20.7.1955. Therefore, as per Section 2(1)(b)(i)[8] read with sub-section (1) of Section 3, all imams shall be deemed to have been abolished and shall vest in the State with effect from 20.7.1955. The Act was repealed by A.P. Act 8 of 1967, which was challenged before this Court. In **Jagannadha Rao v State of A.P.**[9], this Court declared 1967 Act as void. However, in **Mohd. S.H.Khan v State of A.P.**[10], the Supreme Court held that the original Act of 1955 could not have said to have been repealed. As a result of this, Inams Abolition Act got resurrected. In the mean while, the Government of Andhra Pradesh issued a notification under Section 1(3)(b), notifying 01.11.1973 as the date of vesting for the purpose of Section 2(1)(b)(ii). Therefore, for determination of occupancy rights, the date shall have to be reckoned

as 01.11.1973 as held by the Division Bench of this Court in **B.Ramender Reddy v The District Collector, Hyderabad District**[11].

A passing reference may also be made to the nature of enquiry to be conducted by the RDO/Inams Tribunal while considering the application of any of the category of the persons for grant of ORC. The said provision is to the effect that the RDO shall examine the nature and history of all lands in respect of which a claimant is to be registered as an occupant. Therefore, all matters connected with the history of the land, whether they are under the Tenancy Act or Land Reforms Act, form important evidence in considering a particular claim by any category of persons claiming ORC. A question often would arise whether a person who purchased the inam land from the inamdar between the period from 20.7.1955 to 01.11.1973 can be treated as "successor in interest of an inamdar". "Inamdar" means a person holding inam and includes a successor in interest.

The petitioners and respondent No.9 (Popular Society) claimed that they purchased the land from Inamdar and, therefore, they are entitled for ORC. Whether they can be considered as successors in interest of inamdar, even if inamdar had declared before the LRT that he sold the land to the petitioner and respondent No.9? It would be appropriate to deal with this point after noticing, in brief, the proceedings before the LRT in respect of the entire land owned by Vakiti Pulla Reddy.

LRT PROCEEDINGS

Learned Assistant Government Pleader has produced the following files. (i) Relevant file from the RDO containing 1025 pages, (ii) Relevant file from the Joint Collector containing 1115 pages, and (iii) Three other filed from the Joint Collector containing necessary appeal papers filed by the 8th respondent, 9th respondent, 15th respondent and respondents 16 to 21. This Court has perused the files so as to see whether the documents relied by the original as well as appellate authority lead to such conclusion as was reached by the authorities. Though the original LRT record is not available, relevant orders are found in different records and the ensuing summation is based on such proceedings.

Vakiti Pulla Reddy filed declaration on 10.4.1975 under Section 8(1) of Land Reforms Act being C.C.No.1180/E/75 before the LRT, Hyderabad East. He declared land admeasuring Acs.204.95 guntas in survey Nos.204 to 224 and 232 situated at Papayyaguda H/o.Kuntloor Village in Ranga Reddy District. After conducting enquiry into the same, LRT passed orders under Section 9 of Land Reforms Act on 05.8.1976 (p.73 of Paper Book Vol.I filed by the learned Counsel for

petitioners) declaring Vakiti Pulla Redyd as surplus agricultural landholder to the extent of 2.4848 SHs (equivalent to Acs.146.42 guntas). The declarant was directed to surrender excess land under Section 10(1) of Land Reforms Act. The declarant did not file statement of lands for surrender. LRT selected the land in certain survey numbers and passed order dated 31.8.1977 under Section 10(4) of Land Reforms Act. Thereafter the declarant filed surrender petition. The LRT accepted the same and again passed orders on 16.2.1982 (p.331 of RDO's file), accepting the surrender of land admeasuring Acs.146.42 guntas in survey Nos.204 to 209, 214 to 219, 220/1, 220/2, 220/3, 224, 225 and 232, duly cancelling the earlier order dated 31.8.1977. In the mean while, aggrieved by the order dated 05.8.1976 passed by the LRT, Gaddam Narasamma, W/o.Somaiah and her five sons filed appeal before LRAT in 1991. The appeal being LRA No.8 of 1991 was allowed, remanding the matter to LRT, with a direction to exclude the lands admeasuring Acs.54.24 guntas covered by Inams Abolition Act, in favour of protected tenants. After giving notices to all concerned, the LRT considered the matter afresh.

Deviating slightly, it is necessary to refer to the proceedings before Inams Tribunal. Gaddam Narasamma and others (legal heirs of protected tenant) filed application before the RDO under Section 10 of Inams Abolition Act for grant of ORC. The petitioners herein filed application objecting the same. They claimed ORC for themselves on the strength of unregistered agreement of sale dated 10.2.1967 for Acs.96.24½ guntas, executed by Pulla Reddy. After conducting enquiry, RDO rejected the version of the petitioners by proceedings dated 20.6.1989 granting ORC in favour of Gaddam Narasamma and others in respect of the land admeasuring Acs.54.24 guntas in survey Nos.204 to 207 and 215 to 219. Against this, the petitioners herein filed appeal under Section 24 of Inams Abolition Act before the Joint Collector.

Even while the appeal filed by the petitioners was pending before the Joint Collector against the ORC granted to Somaiah's family, petitioners also filed claim petitions before the LRT. Their claim was based on purchase from Pulla Reddy. However, having regard to the orders passed by the RDO on 20.6.1989 under Inams Abolition Act in favour of protected tenants, while rejecting their claim, LRAT directed to delete land admeasuring Acs.54.24 guntas from the surplus land of the declarant and that land admeasuring Acs.91.82 guntas shall remain in custody of the Government, as the land was already taken possession pursuant to the orders of the LRT dated 16.2.1982. The LRT passed orders on 22.6.1994 (p.915 of RDO's file). About six months thereafter, the Joint Collector also passed orders in File

No.B3/1042/89 dated 17.12.1994 (p.631 of Joint Collector's file) rejecting the appeal filed by the petitioners against ORC granted to respondents 10 to 14. Insofar as the claim of the petitioners for ORC to an extent of Acs.54.24 guntas is concerned, the matter stands concluded because they did not pursue the matter further before superior forum.

Insofar as the claim of the protected tenants – respondents 3 to 7 – is concerned, that was not the end. They were claiming that their father Babaiah was protected tenant in respect of land admeasuring Acs.107.31 guntas and, therefore, the same has to be deleted from the surplus holding of the declarant, Vakiti Pulla Reddy. Therefore, not satisfied with the order of the LRT dated 22.6.1994, they preferred appeal being LRA No.267 of 1994 before LRAT. The same was allowed on 01.2.1995 directing exclusion of Acs.107.31 guntas including the land admeasuring Acs.54.24 guntas, which was already deleted by LRT. But LRAT dismissed the appeal insofar as the land admeasuring Acs.22.35 guntas covered by survey Nos.214, 220/1, 220/2 and 220/3. After the orders of the LRAT in LRA No.267 of 1994, the matter again went before the LRT, which passed orders on 19.6.1995 directing deletion of an extent of Acs.53.07 guntas in survey Nos.204, 208, 209, 216 and 219. Be that as it is, respondent No.8 filed C.R.P.No.661 of 1996 before this Court against the order of LRAT dated 01.2.1995 in LRA No.267 of 1994. By an order dated 10.11.1999, this Court set aside the order of the LRAT observing that there is no reason to delete the land admeasuring Acs.53.07 guntas from the surrendered land and that protected tenants will become tenants of the Government. This Court also observed that the protected tenants can pursue their remedies under the provisions of Inams Abolition Act or Tenancy Act before appropriate authorities.

As seen from the record, respondents 10 to 14 did not file any application either before the Inams Tribunal or Tenancy Tribunal for Acs.53.07 guntas, which they wee claiming in addition to Acs.54.24 guntas for which ORC was already granted by the RDO on 20.6.1989. In view of this, there cannot be any dispute that respondents 10 to 14 have to work out their remedies; if such course is possible under law - by pursuing appropriate authority under different Acts as observed by this Court in C.R.P.No.661 of 1996. In these cases, this Court has to consider the claim of (i) petitioners, (ii) respondent No.9, (iii) respondent No.15 (Authorised Officer) and (iv) respondents 16 to 21.

ENTITLEMENT FOR ORC

Whether purchasers from Inamdars are entitled for ORC

Reading of Sections 4, 5, 6, 7 and 8 read with 10 of Inams Abolition Act would show that so as to be registered as occupant of

agricultural inam land, different categories of persons have to show that as on the date of vesting they were in possession of such land in whatever capacity they claim. The Inams Abolition Act abolished imams with effect from 20.7.1955 and the Government declared 01.11.1973 as the date of vesting for the purpose of Sections 4 to 8. Therefore, though all the imams stood abolished and the land vested in the State free from encumbrances with effect from 20.7.1955, all the persons who were in possession of the land as on 01.11.1973 are entitled for ORC. If a person claims to be successor in interest of inamdar by reason of a sale after 20.7.1955, such sale cannot be recognized for the simple reason that from that date, the land vested in the State and all rights to inam land stood abolished. The inamdar had therefore no right to transfer the property to a third party after 20.7.1955 when he became incompetent to transfer the property.

Under Section 6 of Transfer of Property Act, the property of any kind may be transferred but as per Section 6(d), an interest in the property restricted in its enjoyment to the owner personally cannot be transferred by such owner. It may be noticed that under Section 3(2)(g) of Inams Abolition Act, an inamdar or any other person whose rights have been vested in the State under Section 3(2)(b), shall be entitled to only compensation as provided under the Inams Abolition Act and different categories of occupants are entitled to such rights and privileges subject to such conditions as provided under the Act. Therefore, though after the date of vesting the occupants or inamdars are entitled to continue to be in occupation, they are entitled to transfer such limited interest to enjoyment to third parties. The question whether a sale or inam land by inamdar after the date of vesting is valid or not, is no more *res integra*.

In **Lokraj v Kishan Lal**[12], the Supreme Court considered the effect of abolition of imams and vesting of land in the State by reason of which the right in the land stood transferred to the State. In that case, respondent had filed a suit for partition of certain lands some of which were inam lands, on a preliminary question, the Division Bench of High Court of Andhra Pradesh, took the view that even in respect of inam lands a suit for partition is maintainable. The Supreme Court, however, did not agree with the view of the High Court and held as under.

> **Consequent to the abolition, the pre-existing right, title and interest of the inamdar or any person having occupation of the inam lands stood divested and vested the same in the State until re-grant is made. The inamdar, thereby lost the pre-existing right, title and interest in the land.** The right to partition itself also has been lost by the

> statutory operation unless re-grant is made. We are not concerned with the consequences that would ensue after re-grant of this appeal. Therefore, it is not necessary for us to go into the question that may arise after the re-grant.
>
> (emphasis supplied)

The Supreme Court also considered the question whether right to claim partition is also lost after abolition of imams. Answering this in the affirmative, it was held as under.

> The learned Senior Counsel, placing reliance on *Kalgonda Babgonda Patil* v. *Balgonda Kalgonda Patil*[13], and *Shivappa Tammannappa Karaban* v. *Parasappa Hanammappa Kuraba*[14] contended that the right to claim partition has not been lost, though inam has been abolished. We find no force in the contention. Therein, after abolition of the watan re-grants were made in favour of watandars. In view of the pre-existing watans burdened with service of watandar as per pre-existing law, excluded the junior members of the family to claim partition, was abolished and re-grant was made to the watandar, after the re-grant the property became the joint family property. So the coparceners of the Hindu joint family were held entitled to lay the suit for partition and civil court has jurisdiction to grant decree of partition by metes and bounds pro rata. That ratio has no application to the facts of this case. When re-grant is made and in what capacity the re-grant would be made is a matter to be considered and decided in terms of the re-grant.

In view of the law declared by the Supreme Court in **Lokraj** (supra), the petitioners, who placed reliance on the agreement dated 10.2.1967 executed by inamdar, and respondent No.9, who placed reliance on the agreement executed in favour of society on 25.8.1982 by inamdar, cannot be treated as successors in interest of inamdar.

Dealing with the claim of the petitioners in their first attempt to get ORC in 1989, the appellate authority in its order dated 17.12.1994 (p.631 of Joint Collector's file) made the following observations, which are in consonance with the dicta laid down by the Supreme Court in **Lokraj** (supra).

> As regards the claim of the appellant that he has alleged to have purchased a large extent of land under an agreement of sale from Vakiti Pulla Reddy, Inamdar has no semblance of right in the Inam lands covered under this appeal, as the lands were already vested with the Government from 20.7.1955 u/s.3 of the A.P.(T.A) Abolition of Inams Act, 1955. even admitting that the appellant was in possession of the land the appellant has not substantiated his claim as to how he has got

into possession and how he is entitled for grant of occupancy certificate under the A.P. (T.A) Abolition of Inams Act, 1955 when he is not in possession of these lands on the date of vesting i.e., 20.7.1955 and as well as on crucial period i.e., 1.11.1973. This conclusion is justified for the reason that he was never inducted into possession either by the Inamdar or the protected tenants, nor it is the case of appellant that he is the liveal descendent of the inamdar or the protected tenant. In view of the above observations as the appellant does not have any documents to substantiate his claim for being entitled to grant of occupancy rights under Inam Abolition Act, 1955.

Apart from the above reason, the claim of the petitioners as well as respondent No.9 was rejected for sound and valid reasons. The original as well as appellate authority found that the petitioners tampered with the chesla pahanis for 1954-1958 and khasra pahanis for 1962-1963 and 1973-1974. The original authority therefore drew an inference that the petitioners fabricated records and they were not in possession of the schedule lands, as reported by the MRO, Hayathnagar Mandal in his letter dated 30.7.1988. Insofar as the claim of 9th respondent is concerned, the original authority observed that no positive evidence was adduced to show that the possession was given to the society. The appellate authority also elaborately considered the record, various reports and came to the conclusion that the petitioners or 9th respondent were not in possession of the land and that the claim of the petitioners was already rejected in 1989, which was affirmed by the appellate authority in 1994.

Learned Counsel for the petitioners placed strong reliance on first report of MRO dated 12.8.1994 and the order of the LRT dated 05.8.1976 under Section 9 of Land Reforms Act passed with reference to the declaration made by Pull Reddy under Land Reforms Act. He submits that these documents support the claim of the petitioners for ORC. This Court is not able to countenance the submissions. This Court has perused the first report of MRO (p.96 of RDO's file) as well as second report of the MRO dated 26.8.1996 (p.487 of RDO's file). The first report gives all the details of pattadars and cultivators from 1958-1959 to 1992-1993. From 1958-1959 to 1972-1973, Pulla Reddy shown as inamdar. Seethaiah, Yadagiri, G.Babaiah, Akula Narasaiah, V.Prathapa Reddy and M.Punnaiah are shown as cultivators. While giving particulars with reference to pahani for 1973-1974 the name of 'V'.Prathapa Reddy is changed to 'Chama' Prathapa Reddy, second petitioner herein. In subsequent pahanis, the name of Prathapa Reddy is mentioned with surname. The name of the 9th respondent is shown

to be included in the pahanis 1987-1988 and thereafter. Here again, the first report of the MRO running into eight pages (back to back four papers) is written with two different inks. The first three papers of the report are in one ink whereas in the last paper half of the page is in thick black ink and remarks allegedly made by the MRO are in a different ink. Even this also does not totally support the petitioners' case because it says that as per the enquiry conducted by the MRO from 1993-1994 petitioners were in possession of the land but at the time of inspection, the land was fallow. A reading of the first report would certainly support the conclusion reached by the original authority that the revenue records were tampered by the petitioners. The second report of MRO fully supports the case of respondents 3 to 7, who are the sons of a protected tenant- Gaddam Babaiah. This report is a typed report, which makes a reference to kowlnama (lease deed) executed by Pulla Reddy in favour of Gaddam Babaiah, S/o.Sayanna and the proceedings under Sections 10 and 24 of Inams Abolition Act passed by the RDO and Joint Collector respectively. At the end of the report, the MRO also says that a panchanama was conducted recording the physical possession over the lands in survey Nos.210, 221, 223 and 224 and that as per the statements made by the adjacent pattadars, Gaddam Mallesh (fifth respondent) was cultivating the land and he was in physical possession. The MRO also recommended for grant of ORC to all legal representatives of protected tenant. The kowlnama and panchanama referred to in the report of MRO, were also referred to by Joint Collector as document Nos.1 and 2, which are found at pp.495, 499 respectively in RDO's file. The submission of the learned Counsel for the petitioners that first report of the MRO supports the case of the petitioners or that the MRO ought not to have relied on second report, are only stated for the purpose of rejection.

The petitioners cannot rely on the order dated 05.8.1976 passed by the LRT under Section 9 of the Land Reforms Act. In support of the validity of sale transaction dated 16.2.1967 between petitioners and Pulla Reddy. A perusal of the said order (p.73 of the paper book filed by the petitioners) would show that the declarant himself deposed before the LRT that he has not executed any registered sale deeds in favour of petitioners, that he has not handed over the possession of the lands to the purchasers as they did not pay entire sale consideration and that he himself is in possession of the land. LRT also did not accept the sale made by Pulla Reddy in favour of petitioners and initially declarant was held to be holder of surplus agricultural land to an extent of 3.4848 SHs. Of course, this was subsequently modified on remand by the appellate authority wherein rights of the protected

tenants were recognized by grant of ORC and the land to such extent was deleted from the surplus holding of declarant. A reference is already made to this aspect and it is not necessary to repeat again. The documents relied on by the learned Counsel for the petitioners for reasons as above, do not in any manner support the claim of the petitioners. Sale after 20.7.1955 (on which day all imams vested in State) by inamdar in favour of the petitioners cannot be recognized in law. The right of inamdar to be registered as an occupant on the date of vesting under Section 1(3)(d) of Inams Abolition Act i.e., 01.11.1973 is a limited restricted right to enjoy the land subject to other rights and privileges as provided under the Inams Abolition Act. Such right does not include, as held by the Supreme Court, the right to transfer land vested in the State.

Again reverting to the right of 9th respondent, either the first report of the MRO or the second report of the MRO do not support the claim of 9th respondent that it was in possession of the land as on 01.11.1973. It has failed to produce any evidence before the Authorities or before this Court and indeed applying ratio in **Lokraj** (supra), sale in favour of 9th respondent by inamdar cannot be recognized for the purpose of grant of ORC under Section 4 read with 10 of Inams Abolition Act. In other words, grant of ORC in favour of respondents 3 to 7 is well supported by documentary evidence and the same is in accordance with the provisions of the Inams Abolition Act.

WHETHER PERSONS CLAIMING TO BE PROTECTED TENANTS ARE ENTITLED FOR O.R.C.

Claims of respondents 10 to 14

Respondents 10 to 14 did not file any claim petition before the RDO presumably for the reason that being legal heirs of Gaddam Somaiah, another protected tenant, they were already granted ORC in their favour. They were also not the parties before the appellate authority. But they filed W.P.No.17542 of 2004 assailing appellate order, feeling aggrieved by certain observations made herein. They rely on the observations made by this Court in C.R.P.No.661 of 1996 dated 10.11.1999 and assert that out of the total extent of the land admeasuring Acs.107.31 guntas, they got ownership certificate under Section 38E of the Tenancy Act for Acs.54.24 guntas and remaining area of Acs.53.07 guntas is in their possession as protected tenants. It would be better to deal with this group of alleged protected tenants while C.R.P.No.4223 of 2003 filed by the Authorised Officer is taken up for consideration because therein they are added as respondents 7 to 11.

Claim of respondents 16 to 21

Respondents 16 to 21 did not file any separate claim petition before the RDO. After the original authority rejected the claim, petitioners and respondents 8 and 9, respondents 16 to 21 filed appeal being No.F/9079/98 objecting the grant of ORC to respondents 3 to 7. Their appeal was rejected by the Joint Collector. Aggrieved by the same, they also filed W.P.No.3394 of 2002 for a writ of Certiorari and for consequential direction to the RDO to consider grant of ORC to them in respect for lands in survey Nos.210 to 213 and 221 to 223 admeasuring Acs.56.13 guntas. Their case before appellate authority was that their predecessor was the tenant of the land belonging to Pulla Reddy but, respondents 3 to 7 obtained ORC by manipulating the records and the report of the MRO. They placed reliance on revenue receipts to prove their possession as on the date of vesting. The Joint Collector rejected the claim observing that there is nothing to prove that their predecessor was the tenant of schedule lands and that stray entries in the pahanis do not confer right for ORC. Learned Counsel for respondents 16 to 21 submits that the Joint Collector granted ORC in favour of respondents 3 to 7 based on the panchanama dated 04.2.1992 conducted by the MRO and that the same itself cannot be the basis to come to a conclusion about protected tenancy. This submission of the learned counsel cannot be accepted.

As seen from the order of the RDO as well as Joint Collector when the petitioners filed claim petition for ORC in 1989, the RDO granted ORC in favour of the heirs of Gaddam Somaiah and the same was confirmed by the Joint Collector in the appeal order dated 17.12.1994. Secondly, the kowlnama executed by Pulla Reddy in favour of Gaddam Babaiah also supported the conclusion of the authorities that the predecessor of respondents 16 to 21 failed to prove that he was in possession of the land as on the date of vesting. In the absence of proven perversity these findings cannot be interfered with. After perusing the records placed before this Court, this Court is convinced that there are good and sufficient reasons not to differ with the finding of fact recorded by the original authority as well as the appellate authority.

CLAIM OF AUTHORISED OFFICER

The Authorized Officer, Land Reforms, filed appeal before the Joint Collector against four orders passed by the RDO at different points of time. It is doubtful whether such an appeal could have been filed. Be that as it is, in the said appeal (1) grant of ORC to Smt.Kanta Bai, W/o.Ratna Kumar, for an extent of Acs.8.08 guntas in survey Nos.220/2 and 220/3 by proceedings dated 08.11.1982; (2) grant of ORC in favour of Mohd. Khasim Ali, S/o.Abbas Ali, for an extent of

Acs.14.13 guntas in survey No.209 by proceedings dated 05.2.1986; (3) grant of ORC in favour of Madugula Punnaiah, (father of third respondent in W.P.No.17542 of 2004), for an extent of Acs.28.04 guntas in survey Nos.204, 208 and 209 by proceedings dated 28.12.1979; and (4) grant of ORC in favour of respondents 3 to 7 for an extent of Acs.56.13 guntas in survey Nos.210 to 213 and 221 to 223 by proceedings dated 19.9.1997.

It was the main contention of the Authorised Officer that pursuant to the proceedings of the LRT, an extent of Acs.142.07 guntas was taken over possession on 11.3.1982 and, therefore, ORC could not have been granted to above noted persons or to the legal heirs of protected tenants. The appellate authority set aside the proceedings of the RDO dated 08.11.1982 and dated 05.2.1986 under which, Smt.Kanta Bai and Mohd. Khasil Ali respectively, were granted ORC by the RDO and remanded the matter to RDO for fresh enquiry into the claims made by Kanta Bai and Khasim Ali. Insofar as the grant of ORC to Madugula Punnaiah by proceedings of RDO dated 28.12.1979 and the grant of ORC in favour of respondents 3 to 7 – five sons of late Gaddam Babaiah is concerned; appeal was dismissed.

The Authorised Officer filed C.R.P.No.4223 of 2003 under Section 28 of the Inams Abolition Act. A plain reading of the said provision[15] would show that a revision shall lie to the High Court from any order/proceedings taken by the Collector (Joint Collector), except those referred to in Section 24 of Inams Abolition Act. This only means that when the Joint Collector exercise revisional jurisdiction under Section 24 of Inams Abolition Act against the order of the RDO either granting or rejecting ORC, no revision would lie. Learned Government Pleader for Land Ceiling does not dispute this. Therefore, this Court holds that the C.R.P. filed by the Authorised Officer under Section 28 of Inams Abolition Act is not maintainable.

As seen earlier, respondents 10 to 14 filed W.P.No.17542 of 2004 challenging the order of the Joint Collector in File No.F1/6909/97 which in fact was the appeal of the Authorised Officer. These respondents did not file any application for ORC nor were they parties to the claim petitions before the RDO which culminated in the order dated 19.9.1997. These respondents also did not file any appeal before the Joint Collector. They contend that being the legal heirs of Gaddam Somaiah, S/o.Sayanna, the protected tenant, they are entitled for ORC in respect of land admeasuring Acs.107.31 guntas but, they were granted ORC only in respect of Acs.54.24 guntas and by reason of the observations made by the Joint Collector in the impugned order, their rights would be prejudiced. They placed reliance on the order of

the LRAT in LRA No.267 of 1994 dated 01.4.1995. In the said order, it was observed that though the respondents 10 to 14 are holders of land admeasuring Acs.107.31 guntas their claim in respect of land admeasuring Acs.22.35 guntas in survey Nos.214, 220/1, 220/2 and 220/3 was dismissed. They would urge that as land admeasuring Acs.54.24 guntas was directed to be deleted from the surplus land, the surrender of these lands and the custody of the land with the Government does not in any manner defeat their right for ORC. This position is reiterated by learned Counsel for respondents 10 to 14. Having regard to the orders of the original authority dated 20.6.1989 as well as appellate authority dated 17.12.1994 under Inams Abolition Act, respondents 10 to 14 cannot seek any redressal in these proceedings, for the reasons as below.

Gaddam Somaiah, S/o.Sayanna, filed a claim petition under Section 7 of Inams Abolition Act before the RDO in 1986 claiming ORC in respect of inam lands admeasuring Acs.42.31 guntas, namely, survey Nos.205 (Acs.1.23 guntas), 206 (Acs.1.13 guntas), 207 (Acs.18.07 guntas), 209 (Acs.19.31 guntas) and 219 (Acs.1.37 guntas). The RDO issued a general notice in Form-II dated 20.5.1988 as required under the Inams Abolition Rules. The second petitioner filed an objection petition claiming possession over the land in survey Nos.205 to 218 and 219. One Narasimha, S/o.Pentaiah, also filed an objection petition claiming purchase of land in survey Nos.214 (Acs.1.37 guntas) and 219 (Acs.1.21 guntas) from the original inamdar. Be that as it is, when the matter was pending before the RDO, Gaddam Somaiah died and his wife Narasamma and five sons – respondents 10 to 14; were brought on record as legal heirs on 13.9.1980. The RDO considered the claims in the light of tenancy register and khasra pahani for the year 1954-1955. The RDO by order dated 20.6.1989 granted ORC for an extent of Acs.54.24 guntas in survey Nos.204 to 207 and 215 to 219. The RDO however rejected the claim for grant of ORC in respect of lands in survey Nos.220 (Acs.7.20 guntas) and 220/3 (As.0.28 guntas), because for this land ORC was already granted to Smt.Kanta Bai in proceedings dated 08.11.1982. Similarly, the RDO refused to grant ORC for land admeasuring Acs.14.13 guntas in survey No.209 for which ORC was granted to Mohd. Khasim Ali in proceedings dated 05.2.1986. ORC was also refused to respondents 10 to 14 for lands in survey Nos.204 (Acs.5.50 guntas), 207 (Acs.18.07 guntas) and 209 (Acs.19.31 guntas) because ORC was already granted to Madugula Punnaiah (father of the third respondent in W.P.No.17542 of 2004) by proceedings dated 24.12.1979.

Against the order of the RDO dated 20.6.1989, the second

petitioner and others filed appeal before the Joint Collector. In the said appeal, respondents 10 to 14 and their mother Narasamma, were shown as respondents. They did not file any separate appeal against refusal to grant ORC for which ORC was already granted to Kanta Bai, Mohd. Khasim Ali and Madugula Punnaiah. Joint Collector by order dated 17.12.1994 rejected the appeal of the second petitioner upholding the grant of ORC to respondents 10 to 14 only to an extent of Acs.54.24 guntas. Though ORCs were granted to Smt.Kanta Bai, Mohd. Khasim Ali and Madugula Punnaiah and though the respondents 10 to 14 claimed these lands in LRA No.267 of 1994 before the LRAT, they did not challenge the ORCs issued to these persons. Hence they cannot be permitted to raise objection in these cases.

While dealing with the appeal filed by respondent No.15 (Authorised Officer), the Joint Collector by impugned order has remitted the matter to the original authority insofar as ORC granted to Kanta Bai and Mohd. Khasim Ali are concerned. If so advised, respondents 10 to 14 may appear before the original authority and may agitate the matter by filing appropriate applications/objection petitions/implead petitions. As observed by this Court in C.R.P.No.661 of 1996, the right of the protected tenants could not be disturbed by proceedings under Land Reforms Act and even if the declarant surrendered excess land, tenants can still claim rights under Inams Abolition Act or Tenancy Act before appropriate forum. Subject to the question of limitation and other procedural aspects, respondents 10 to 14 can if so advised always agitate the matter before competent authority. In this writ petition, however, they cannot be granted any relief.

CONCLUSION

In view of above discussion and conclusions on various aspects of the matter, Writ Petitions Nos.3021, 3394 and 3972 of 2002 and Civil Revision Petition No.4223 of 2003 are dismissed. Writ Petition No.17542 of 2004, subject to above observations, is also dismissed. There shall be no order as to costs.

(V.V.S.RAO,J)

.11.2006.

NOTE:

LR Copy be marked.

(By order)

YS/pln

[1] For the sake of convenience, the writ petition No.3012 of 2002 is treated as comprehensive one and parties are also referred as per their status therein.

[2] (a) As per Section 2(b) of Inams Abolition Act, the expression 'date of vesting' when used –

(i) in sub-section (1), sub-section (2) with reference to clauses (a), (b), (c), (e) and (f) and sub-section (3) of Section 3 and in Section 34, means the date of publication of this Act in the Official Gazette;

(ii) elsewhere in this Act means the date appointed by the Government under clause (b) of sub-sec.(3) of Sec.1;

(b) For the purpose of enforcement of the Act, date of vesting is 20.07.1955 and for the purpose of considering the claim for registration as occupant and issue of ORC, date of vesting is 01.11.1973. All categories of persons referred to in sections 3 to 8 must produce evidence that they were in possession of the inam land as on 01.11.1973 so as to claim ORC.

[3] As defined in Section 2(1)(d), 'inamdar' means a person holding an inam or a share therein, either for his own benefit or in trust and includes the successor in interest of an inamdar, and –

(i) where an inamdar is a minor or of unsound mind or an idiotJ, his lawful guardian;

(ii) where an inamdar is a Joint Hindu family, such Joint Hindu family.

[4] As defined in Section 2(1)(e), 'kabize-e-khadim' means the holder of inam land, other than an inamdar, who has been in possession of such land at the time of the grant of inam or has been in continuous possession of such land for not less than twelve years before the date of vesting and who pays the inamdar only the land revenue.

[5] As defined in Section 2(1)(h), 'permanent tenant' means a person who, from a date prior to 10th June, 1950, has been cultivating the inam land on a permanent lease from the inamdar whether under an instrument or an oral agreement.

[6] As defined in Section 2(1)(j), 'protected tenant' mans the protected tenant as defined in the Andhra Pradesh (Telangana Area) Tenancy and Agricultural, Lands Act, 1950 (Act XXI of 1950)

[7] As defined in Section 2(1)(g), 'non-protected tenant' means a tenant other than a permanent tenant or a 'protected tenant'.

[8] Section 2(1)(b): The expression 'date of vesting' when used –

(i) in sub-section (1), sub-section (2) with reference to clauses (a), (b), (c), (e) and (f) and sub-section (3) of Section 3 and in Section 34, means the date of publication of this Act in the Official Gazette;

(ii) elsewhere in this Act means the date appointed by the Government under clause (b) of sub-sec.(3) of Sec.1.

[9] 1972(1) ALT 270

[10] AIR 1974 SC 1480

[11] 1993 (2) An.W.R. 84 = 1993(2) ALT 45 (NRC)

[12] (1995)3 SCC 291

[13] 1989 Supp (1) SCC 246

[14] 1995 Supp (1) SCC 162 = (1994) 4 Scale 750

[15] **28.Revision:-**

Notwithstanding anything contained in this Act or any other law for the time being in force, an application for revision shall lie to the High Court from any order passed or proceedings taken by the Collector (except these referred to in Section 24) or by the Special Tribunal under this Act on the following grounds that the original or appellate

authority:-

(a) exercise a jurisdiction not vested init by law;

(b) failed to exercise a jurisdiction so vested; or

(c) acted illegally or with material irregularity in following the procedure or passing the order.